

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION

JOSEPH DAVID BROWN, JR.,
Plaintiff,
v.
CMC, et al.,
Defendants.

} CV 08-4587-VAP (SH)
}
} ORDER ADOPTING REPORT AND
} RECOMMENDATION OF UNITED
} STATES MAGISTRATE JUDGE; and
} ORDER
}
}
}
}

Pursuant to 28 U.S.C. Section 636(b)(1)(c), the Court has reviewed the Third Amended Complaint and other papers along with the attached Report and Recommendation of the United States Magistrate Judge, and has made a de novo determination of the Report and Recommendation.

IT IS HEREBY ORDERED that:

1. The Report and Recommendation is approved and adopted.
2. Plaintiff's Third Amended Complaint is dismissed with leave to

1 amend, with the exception of Claims 2 and 3, which are dismissed as
2 to defendants Marshall and Dunn respectively. Claim 6 is dismissed
3 without leave to amend.

4 If Plaintiff wishes to pursue this action in this court, he must file a Fourth
5 Amended Complaint within thirty days (30) of the date this Order Adopting the
6 Report and Recommendation is filed. The Fourth Amended Complaint, bearing the
7 number CV 08-4587-VAP (SH), must be a complete and independent document and
8 must not refer to prior pleadings. Plaintiff is cautioned that failure to file a Fourth
9 Amended Complaint within the time specified by this Order may result in dismissal
10 of the action with prejudice on the grounds stated in the Report and
11 Recommendation of the United States Magistrate Judge and/or for failure to
12 prosecute.

13 In preparing a Fourth Amended Complaint, Plaintiff must bear in mind the
14 deficiencies of the current pleading, and must assure that they are not repeated.
15 Plaintiff must take particular note of the following guidelines:

- 16 1. Plaintiff must set forth the jurisdictional grounds for his claims at the
17 outset of the Complaint.
- 18 2. The Complaint must include only factual allegations directly relevant
19 to Plaintiff's claims, which must be stated in separate, numbered
20 paragraphs (preferably in chronological order), each limited to a single
21 set of circumstances. The facts should be stated in simple, complete
22 sentences. Repetition is to be avoided.
- 23 3. The Complaint must clearly identify the specific acts on which each
24 claim is based. Insofar as possible, the allegations should include the
25 date, time, place and circumstances of the offending conduct by each
26 defendant, a clear statement of what each defendant did or failed to do,
27 and the damage of injury suffered by Plaintiff as a result of each
28 defendant's conduct.

